

160728

Served: March 21, 2002



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

**Joint Application of Delta Air Lines, Inc., Korean Air Lines Co., Ltd.,
Société Air France, Alitalia-Linee Aeree Italiane-S.p.A. and Czech Airlines
for Approval of and Antitrust Immunity for Alliance Agreements
under 49 U.S.C. §§ 41308 and 41309 (Docket OST-2002-11842)– 3**

NOTICE PROVIDING ACCESS TO DOCUMENTS

On March 13, 2002, Delta Air Lines, Inc. (Delta), Korean Air Lines Co., Ltd. (KAL), Societe Air France (Air France), Alitalia-Linee Aeree Italiane-S.p.A. (Alitalia) and Czech Airlines (CSA), including their respective affiliates, filed jointly for approval of and antitrust immunity for (1) a bilateral alliance cooperation agreement between Delta and KAL (Exhibit JA-1); (2) a multilateral alliance coordination agreement among the Joint Applicants (Exhibit JA-2); and (3) existing and future implementation agreements and/or transactions (hereafter the "Alliance Agreements").¹ Delta also filed a motion under 14 C.F.R. 302.12 (Rule 12) of our regulations seeking confidential treatment for supporting documents and information. Delta maintains that this material is proprietary, commercially sensitive, and confidential in nature which qualifies for being withheld from public disclosure. Delta asks that access to this material be limited to counsel and outside experts for interested parties.²

As an initial matter, in order to afford interested parties prompt access to the documents under conditions agreed to by Delta and imposed by the Department under similar recent circumstances,³ we will grant immediate interim access to all documents covered by the Rule 12 Motion to counsel and outside experts for interested parties who file appropriate affidavits with the Department in advance. Moreover, consistent with earlier determinations, at the Dockets facility, Parties will be permitted to make copies of the exhibits for use by persons who have filed confidentiality affidavits.⁴ We also find it appropriate to grant interim access to any subsequent materials that may be filed in this case under a Rule 12 Motion to counsel and outside

¹ The Joint Applicants also incorporated by reference their previous submission of alliance and other corporate documents in Docket OST-2001-10429. Joint Application at 33.

² See Delta Motion at 5. Answers to the motion are due on March 22. We will rule on the merits of the Rule 12 Motion by subsequent order.

³ See Notices in Dockets OST-2001-10429 dated August 21, 2001, and OST-1999-6528 dated January 7, 2000.

⁴ See Notice dated September 7, 2001, p 2, Docket OST-2001-10429 (Delta-Air France-Alitalia-CSA request for approval of and antitrust immunity for Alliance Agreements); and see Notice dated September 11, 2001, Docket OST-2001-10387 (American Airlines-British Airways request for approval of and antitrust immunity for an Alliance Agreement).

experts for interested parties who file appropriate affidavits with the Department in advance, unless the party filing the motion objects.

We expect all affidavits to state, at a minimum, that (1) the affiant is counsel for an interested party or an outside independent expert providing services to such a party; (2) the affiant will use the information only for the purpose of participating in this proceeding; and (3) the affiant will disclose such information only to other persons who have filed a valid affidavit in Dockets OST-2002-11842 and OST-2001-10429. Affiants and interested parties must understand and agree that any pleading or other filing that includes or discusses information contained in the covered documents must itself be accompanied by a Rule 12 motion requesting confidential treatment. Affidavits must be filed in Dockets OST-2002-11842 and OST-2001-10429 with the Department of Transportation, Dockets, Room PL-401, 400 Seventh Street, S.W., Washington, D.C., 20590.

Affiants having filed affidavits may examine the documents at the Department of Transportation at the Dockets location. Affiants must present a stamped copy of the affidavit filed with the Department of Transportation before examination of the documents. Immediately after the completion of any judicial review of our final decision in this docket or the expiration of the 60-day period within which a person may petition for judicial review, all persons who have filed confidentiality affidavits in this proceeding are hereby directed to file a further affidavit stating that all copies of the applicants' confidential materials have been destroyed or returned to the applicants.

Finally, when we have determined that the record of this case is complete, we will announce an appropriate procedural schedule.

We shall serve this notice on all persons on the service list for this docket.

By:

READ C. VAN DE WATER
Assistant Secretary for Aviation
and International Affairs

Date: March 21, 2002

(SEAL)

*An electronic version of this document is available on the World Wide Web at.
<http://dms.dot.gov/search>*